

**CODE OF REGULATIONS
TITLE 10. INVESTMENT.
CHAPTER 7.72. RURAL INVESTMENT TAX EXEMPTION**

s 5480. Rural Investment Tax Exemption.

The California Infrastructure and Economic Development Bank (CIEDB) Board determines who is eligible to receive a Partial Exemption from sales or use taxes imposed on the gross receipts from the sale of and the storage, use or other consumption in this state of Eligible Tangible Personal Property and monitors eligible entities for compliance with the requirements of the Partial Exemption.

Note: Authority cited: Section 11152, Government Code; and Section 6378.1, Revenue and Taxation Code. Reference: Section 6378.1, Revenue and Taxation Code.

HISTORY

1. New section filed 8-15-2002; operative 9-14-2002 (Register 2002, No. 33).

s 5480.1. Definitions.

The following definitions apply to this chapter:

(a) "Applicant" means a natural person or business entity submitting an Application.

(b) "Application" means a written request for an Eligibility Letter submitted to the CIEDB Board containing the information required in Section 5480.2.

(c) "Attainment Date" means the date an entity attains an Investment of one hundred fifty million dollars (\$150,000,000) and fills 500 new Direct Jobs plus Supporting Jobs, including a minimum of 175 Direct Jobs, each as described in section 5480.1(i).

(d) "Authorized Applicant Representative" means the Chief Financial Officer, or equivalent, of the Applicant.

(e) "Certification Letter" means a letter written by an Authorized Applicant Representative to the CIEDB Board confirming that the Applicant has attained the required investment of one hundred fifty million (\$150,000,000) and filled the 500 new Direct Jobs plus Supporting Jobs, each as described in Section 5480.1(i).

(f) "CIEDB Board" means the board of directors of the California Infrastructure and Economic Development Bank within the California Technology, Trade and Commerce Agency.

(g) "Commencement Date" means the first day of the Applicant's Fiscal Year containing January 1, 2001.

(h) "Direct Jobs" means FTE Employees in the County where the Eligible Facility is located.

(i) "Eligible Entity" means an Applicant that locates or expands an Eligible Facility and complies with all of the following:

(1) The Applicant makes an Investment of at least one hundred fifty million dollars (\$150,000,000) in the county in which an Eligible Facility is located. In calculating the Investment, only Investments made between the Commencement Date and the date one year after the Partial Exemption Use Date (unless extended pursuant to an approved Extension Request) shall be included in the calculation;

(2) The Applicant maintains the Investment described in subsection (1) in the Qualified County for at least 24 months following the Attainment Date.

(3) The Applicant creates a minimum of 500 new Direct Jobs plus Supporting Jobs, including a minimum of 175 new Direct Jobs, in the county in which an Eligible Facility is located. In calculating the Direct Jobs and Supporting Jobs, only those Direct Jobs and Supporting Jobs filled between the commencement Date and the date one year after the Partial Exemption Use Date (unless extended pursuant to an approved Extension Request) shall be included in the calculation. "New" as used in this section means an FTE Employee hired into a position not previously held by another employee of the Applicant.

(4) The Applicant maintains the 500 new Direct Jobs plus Supporting Jobs described in subsection (3) in the Qualified County for at least 24 months following the Attainment Date.

(j) "Eligible Facility" means the physical location within a Qualified County owned or leased by the Eligible Entity.

(k) "Eligibility Letter" means the written notification from the CIEDB Board to the Applicant required pursuant to Revenue and Taxation Code Section 6378.1(g) stating that the Applicant is eligible to request a Partial Exemption.

(l) "Eligible Tangible Personal Property" means 'Tangible Personal Property' as defined in California Code of Regulations, Title 18, section 1525.7.

(m) "Exemption Allocation Letter" means the written notification from the CIEDB Board stating that the Applicant has received a specified amount of Partial Exemption for the indicated year.

(n) "Extension Request" means a written request by an Applicant to extend by up to 12 months the Attainment Date.

(o) "FTE Employee" means one or more employees collectively employed by the Applicant for 1,750 hours per year and not moved, transferred, or displaced from other California locations owned or operated by the Applicant or related entity. As used in this subsection, "related entity" means an entity that the Applicant owns 51% or more of or another entity that owns 51% or more of the Applicant.

(p) "Intent of Revocation Letter" means written notification from the CIEDB Board to the Board of Equalization and the Applicant stating that the Applicant is no longer an Eligible Entity. The letter shall include the effective date of the revocation, which shall be the date the CIEDB Board determines that the Applicant failed to meet the Eligible Entity requirements in Section 5480.1(i).

(q) "Investment" means money spent by the Applicant in the county where the Eligible Facility is located for the following: Construction, renovation, and acquisition of all lands, structures, real property, rights, rights-of-way, franchises, licenses, easements, and interests acquired or used in the county, including:

(1) The cost of demolishing or removing any buildings or structures;

(2) The cost of all machinery and equipment located in the county; and

(3) The cost of architectural, engineering, and legal services, plans, specifications, estimates, and other expenses necessary or incidental to the construction or acquisition of a building or structure in the county.

(r) "NAICS" means North American Industrial Classification System code published by the United States Office of Management and Budget, 1997 edition.

(s) "Partial Exemption" means an exemption from only those taxes imposed by Sections 6051, 6051.3, 6201, and 6201.3 of the Revenue and Taxation Code on the gross receipts from the sale in this state of, and the storage, use or other consumption in this state of Eligible Tangible Personal Property purchased by an Eligible Entity.

(t) "Partial Exemption Use Date" means the earliest date on which the Eligible Entity purchases the Eligible Tangible Personal Property upon which it applies any Partial Exemption.

(u) "Qualified County" means a California county with an average annual unemployment rate of five percentage points or more above the statewide average for the most recent calendar year as determined by the State of California, Employment Development Department.

(v) "Request" means a request for a Partial Exemption allocation.

(w) "SIC" means the Standard Industrial Classification Manual published by the United States Office of Management and Budget, 1987.

(x) "Supporting Jobs" means the estimated number of full time equivalent employees created in the Eligible County determined by use of the United States Department of Commerce, Bureau of Economic Analysis' Regional Input-Output Multipliers RIMS II for the county.

Note: Authority cited: Section 11152, Government Code; and Section 6378.1, Revenue and Taxation Code. Reference: Section 6378.1, Revenue and Taxation Code.

HISTORY

1. New section filed 8-15-2002; operative 9-14-2002 (Register 2002, No. 33).

s 5480.2. Eligible Entity Application.

(a) A complete Application consists of a written request containing all of the following items:

- (1) Name of Applicant;
- (2) Address of Eligible Facility;
- (3) Primary classification code from the SIC or NAICS for the Eligible Facility;
- (4) Applicant contact person name, title, address, phone number, fax number and email address;
- (5) Date the Application is signed;
- (6) Signature of an Authorized Applicant Representative;
- (7) The following information relating to Direct Jobs:
 - (A) For FTE Employees hired on or before the date of the Application:
 1. The job title of each employee;
 2. The date of hire of each employee;
 3. The primary job location for each employee. As used in this subsection "primary job location" means the location where the employee performs a minimum of 50% of their work duties;
 4. The hours worked by each employee in the last year. If the employee has been employed less than one year and the position was in existence prior to the hiring of the employee, include the hours allocated to this position prior to the hiring of this employee. If the position has existed for less than a year the number of hours for the position when extrapolating existing hours to an annualized basis, e.,g. 600 hours for 6 months is a 1,200 hour annualized position. In no case shall one employee, or one job position, if more than one person held the same job position (e.g. one employee left the firm and was replaced with another employee) account for more than 1,750 hours annually; and
 5. A certification by the Authorized Applicant Representative that as of the date the Application is signed each employee listed is still working for the Applicant at approximately the FTE Employee hours listed in the Application, their primary job location is in the county where the Eligible Facility is located, and the Direct Jobs and Supporting Jobs will be maintained for at least 24 months following the Attainment Date.
 - (B) For FTE Employees to be hired after the date of the Application:
 1. The job title of each employee that will be hired;
 2. The estimated date of hire of each employee;
 3. An estimate of annual hours of employment for that employee; and
 4. A certification that the Applicant has a good faith intention to hire employees for the job positions as listed, approximately when listed, agrees and understands that each employee must be primarily employed in the county where the Eligible Facility is located and must be maintained for at least 24 months following the Attainment Date.

(8) Detailed listing of the items making up the Investment including the following information:

(A) For item(s) already purchased:

1. Date of purchase;

2. Amount and proof of purchase, e.,g. invoice;

3. Description of item and use; and

4. A certification that as of the date the Application is signed this portion of the Investment is still owned by the Applicant, located in the county where the Eligible Facility is located, and that the Investment will be owned by the Applicant and maintained in the county for at least 24 months after the Attainment Date.

(B) For item(s) to be purchased in the future;

1. Estimated date of purchase;

2. Estimated amount of purchase and written basis for the estimate, e.g. invoices, purchase orders or vendor materials;

3. Description of item and use; and

4. A certification that the Investment will be made by the Applicant and located in the county where the Eligible Facility is located, and that the Investment will be owned by the Applicant and maintained in the county for at least 24 months after the Attainment Date.

Note: Authority cited: Section 11152, Government Code; and Section 6378.1, Revenue and Taxation Code. Reference: Section 6378.1, Revenue and Taxation Code.

HISTORY

1. New section filed 8-15-2002; operative 9-14-2002 (Register 2002, No. 33).

s 5480.3. Partial Exemption Allocation Request.

(a) A complete Request, when submitted with an Eligible Entity Application, shall consist of the following:

(1) The amount of Partial Exemption requested for the current year;

(2) The Partial Exemption Use Date, if known;

(3) A certification that the Request is based on a good faith estimate by Applicant to fully utilize the amount of the Request; and

(4) A certification that includes the following language: "I hereby certify that [name of Eligible Entity] will [or has] purchased during calendar year 20__ tangible personal property meeting the requirements of the California Code

of Regulations, title 18, section 1525.7 in an amount that would entitle [name of Eligible Entity] to a partial exemption of [amount], pursuant to Revenue and Taxation Code section 6378.1;"

(b) A complete Request, when submitted subsequent to the Eligible Entity Application, shall consist of a written document signed and dated by an Authorized Applicant Representative and containing all of the following information:

(1) Name of Applicant;

(2) Address of Eligible Facility;

(3) Primary classification code from the SIC or NAICS for the Eligible Facility;

(4) Applicant contact person name, title, address, phone number, fax number and email address;

(5) The amount of Partial Exemption requested for the current year;

(6) The Partial Exemption Use Date, if known;

(7) A certification that the Request is based on a good faith estimate by Applicant to fully utilize the amount of the Request;

(8) A certification that includes the following language: "I hereby certify that [name of Eligible Entity] will [or has] purchased during calendar year ____ tangible personal property meeting the requirements of the California Code of Regulations, title 18, section 1525.7 in an amount that would entitle [name of Eligible Entity] to a partial exemption of [amount], pursuant to Revenue and Taxation Code section 6378.1;" and

(9) For Applicants that have already received a Eligibility Letter:

(A) A copy of the Eligibility Letter.

(B) A certification by an Authorized Applicant Representative that the Applicant is on schedule to meet the Investment, and filling of new Direct Jobs plus Supporting Jobs, each as required by section 5480.1(i).

(C) A copy of any Certification Letter that was submitted as described in Section 5480.7.

(D) A Copy of Extension Requests granted pursuant to Section 5480.6, if applicable.

(E) A copy of any previously received Exemption Allocation Letter(s); and either

1. The Partial Exemption Use Date; or

2. Written authorization for the CIEDB Staff to obtain confirmation from the Board of Equalization that the Applicant has not used the Partial Exemption.

Note: Authority cited: Section 11152, Government Code; and Section 6378.1, Revenue and Taxation Code. Reference: Section 6378.1, Revenue and Taxation Code.

HISTORY

1. New section filed 8-15-2002; operative 9-14-2002 (Register 2002, No. 33).

s 5480.4. Application and Request Process.

(a) The CIEDB Board shall establish the date of the CIEDB Board meeting for Applications and Requests to be considered at the beginning of each calendar year. CIEDB shall provide notice of this meeting via the mail to individuals on its Interested Parties List, post on the CIEDB Website, and file an advertisement in the California Regulatory Notice Register at least 30 days prior to the application deadline. Any person may be placed on the Interested Parties List by notifying the CIEDB Board.

(b) The deadline for all Applications and Requests shall be 60 days prior to the established CIEDB Board meeting. All Applications and Requests must be postmarked at least 60 calendar days prior to the CIEDB Board meeting designated in subsection (a).

(c) If the Application or Request is either incomplete or does not document intent to meet the requirements of an Eligible Entity, the CIEDB Board shall send a written notice of deficiency not later than 15 days from the date the Application is received by the CIEDB Board. The notice of deficiency shall state what items in the Application or Request must be corrected to be complete and/or document intent to be an Eligible Entity. The Applicant will have ten calendar days to submit to the CIEDB Board written correction to the deficiency.

(d) An Application shall be considered complete if it is postmarked by the deadline provided in subsection (b), complies with Section 5480.2 and if applicable, complies with the provisions in subsection (c) of this section. A Request shall be considered complete if it is postmarked by the deadline provided in subsection (b), complies with Section 5480.3, and if applicable, complies with the provisions in subsection (c) of this section.

(e) CIEDB Board staff shall recommend approval of all complete Applications and Requests, and recommend disapproval of incomplete Applications or Requests unless all of the deficiencies are corrected within the timeframe specified in subsection (c).

(f) The CIEDB Board shall adopt a resolution for each applicant approved as an Eligible Entity and execute an Eligibility Letter. The Eligibility Letter shall remain valid until and unless the CIEDB Board issues an Intent of Revocation Letter.

Note: Authority cited: Section 11152, Government Code; and Section 6378.1, Revenue and Taxation Code. Reference: Section 6378.1, Revenue and Taxation Code.

HISTORY

1. New section filed 8-15-2002; operative 9-14-2002 (Register 2002, No. 33).

s 5480.5. Partial Exemption Allocation.

(a) At the CIEDB Board meeting established in Section 5480.4(a), the CIEDB Board shall allocate the five million dollars (\$5,000,000) aggregate maximum Partial Exemption for the then current calendar year to Eligible Entities requesting a Partial Exemption including those Eligible Entities authorized at the same meeting.

(b) No Eligible Entity shall be authorized to request an amount in excess of five million dollars (\$5,000,000) per year.

(c) If the Partial Exemption amounts requested by all complete Requests exceeds five million dollars (\$5,000,000), the amount available for the allocation to each Eligible Entity shall be a percentage based upon the amount requested by each entity in comparison to the other requests. A formula shall be used where the numerator is the dollar amount requested by a single complete Eligible Entity's Request and the denominator is the total dollar amount of all complete Eligible Entity Requests.

(d) Eligible Entities seeking a Partial Exemption for the 2001 calendar year will be considered through the same allocation process as described in Section 5480.3 during the 2002 calendar year meeting established in section 5480.4(a). Requests that are approved by the CIEDB Board will receive an Exemption Allocation Letter for the 2001 calendar year. The Eligible Entity will present this letter to the Board of Equalization for direction in processing a refund.

(e) CIEDB Board will issue an Exemption Allocation Letter to each Eligible Entity indicating the amount of the Partial Exemption that is awarded to the Eligible Entity for the current year as determined by subsection (c).

(f) The Eligible Entity awarded the Exemption Allocation Letter shall submit the letter to the Board of Equalization as provided in California Code of Regulations, Title 18, Section 1525.7(c)(1).

(g) The Eligible Entity shall notify the CIEDB Board of the Partial Exemption Use Date.

Note: Authority cited: Section 11152, Government Code; and Section 6378.1. Revenue and Taxation Code. Reference: Section 6378.1, Revenue and Taxation Code.

HISTORY

1. New section filed 8-15-2002; operative 9-14-2002 (Register 2002, No. 33).

s 5480.6. Attainment Date Extension Request.

(a) An Eligible Entity that determines it will not attain the required Investment of one hundred fifty million dollars (\$150,000,000) and the hiring of 500 new Direct Jobs plus Supporting Jobs, each as required in section

5480.1(i) within one year of Partial Exemption Use Date shall be authorized to submit an Extension Request to the CIEDB Board. An Extension Request must be postmarked no later than one year following the Partial Exemption Use Date.

(b) An Eligible Entity may only submit one Extension Request.

(c) The complete Extension Request shall consist of a written request signed and dated by an Authorized Applicant Representative containing all the following information:

(1) A copy of the original Application;

(2) A copy of the Eligibility Letter;

(3) The Partial Exemption Use Date;

(4) The amount of Investment attained and number of Direct Jobs created to date;

(5) A detailed description of the reasons for not being able to attain Investment and filling 500 new Direct Jobs plus Supporting Jobs, each as required by section 5480.1(i), within one year of the Partial Exemption Use Date; and

(6) A certification that the Applicant has a good faith belief that the Applicant will fill 500 new Direct Jobs plus Supporting Jobs and attain the Investment of one hundred fifty million dollars (\$150,000,000), each as required in section 5480.1(i), within two (2) years of the Partial Exemption Use Date, and describing the basis for the belief.

(d) The CIEDB shall include on the agenda for a CIEDB Board meeting scheduled within 60 calendar days following the receipt of a complete Extension Request consideration of the Extension Request and notify the Applicant of the meeting not later than 20 calendar days prior to the meeting

(e) The CIEDB staff shall recommend approval of the Extension Request upon a finding that the Extension Request evidenced compliance with both of the following:

(1) Extraordinary circumstances beyond the control of the Applicant exist that have prevented the attainment of the one hundred fifty million dollar (\$150,000,000) Investment and filling of the 500 new Direct Jobs plus Supporting Jobs; and

(2) The extraordinary circumstances will not prevent the one hundred fifty million dollar (\$150,000,000) Investment and filling of the 500 new Direct Jobs plus Supporting Jobs from being attained within two years of the Partial Exemption Use Date.

(f) As used in subsection (e), "Extraordinary Circumstances" means the delay is due to circumstances beyond the Applicant's control.

(g) The CIEDB Board will issue a written notification to the Eligible Entity indicating the results of the Extension Request.

Note: Authority cited: Section 11152, Government Code; and Section 6378.1, Revenue and Taxation Code. Reference: Section 6378.1, Revenue and Taxation Code.

HISTORY

1. New section filed 8-15-2002; operative 9-14-2002 (Register 2002, No. 33).

s 5480.7. Certification Letter Process for Notifying CIEDB Board of Investment and Job Creation Attainment.

(a) An Eligible Entity that has attained, within one year of the Partial Exemption Use Date (unless extended pursuant to an approved Extension Request) the minimum Investment of one hundred fifty million dollars (\$150,000,000) and the filling of 500 new Direct Jobs plus Supporting Jobs, each as required in section 5480.1(i), shall submit a Certification Letter to the CIEDB Board to be postmarked within 30 calendar days following the Attainment Date.

(b) The Certification Letter, signed by the Authorized Applicant Representative, shall be postmarked not later than 30 calendar days following the Attainment Date and shall include the following:

- (1) The name of the Applicant;
- (2) The name, address, phone number, fax number and email address of the Authorized Applicant Representative;
- (3) The Partial Exemption Use Date; and
- (4) Attach the Exemption Allocation Letter.

Note: Authority cited: Section 11152, Government Code; and Section 6378.1, Revenue and Taxation Code. Reference: Section 6378.1, Revenue and Taxation Code.

HISTORY

1. New section filed 8-15-2002; operative 9-14-2002 (Register 2002, No. 33).

s 5480.8. Monitoring Process.

(a) The CIEDB Board shall determine if Eligible Entities utilizing the Partial Exemption awarded by the CIEDB Board have met all of the following requirements:

(1) Submitted a Certification Letter documenting both the Investments made and 500 new Direct Jobs plus Supporting Jobs within one year of the Partial Exemption Use Date (unless extended pursuant to an approved Extension Request); and

(2) The Eligible Entity has attained and maintained the Investment, and 500 new Direct Jobs plus Supporting Jobs.

(b) If CIEDB staff determines that any Eligible Entity has not met the requirement in subsection (a) it will mail to the Eligible Entity an Intent of Revocation Letter.

(c) Eligible Entities that receive an Intent of Revocation Letter shall be authorized to request an opportunity to be heard in front of the CIEDB Board to contest the Intent of Revocation Letter. Any such request must be made in writing to the CIEDB Board and postmarked not later than 15 calendar days following mailing of the Intent of Revocation Letter.

(d) The CIEDB Board shall agenda all Intent of Revocation Letters at the next regularly scheduled Board meeting, held on or after 30 days from the date of the mailing of an Intent of Revocation Letter. Upon adoption of the Intent of Revocation Letter, the CIEDB Board shall mail the Intent of Revocation Letter to the Board of Equalization and to the Eligible Entity within 7 calendar days of its adoption.

Note: Authority cited: Section 11152, Government Code; and Section 6378.1, Revenue and Taxation Code. Reference: Section 6378.1, Revenue and Taxation Code.

HISTORY

1. New section filed 8-15-2002; operative 9-14-2002 (Register 2002, No. 33).

CALIFORNIA CODE OF REGULATIONS
TITLE 18. PUBLIC REVENUES
DIVISION 2. STATE BOARD OF EQUALIZATION - BUSINESS TAXES
CHAPTER 4. SALES AND USE TAX
ARTICLE 3. MANUFACTURERS, PRODUCERS, PROCESSORS
CHAPTER 4. SALES AND USE TAX

s 1525.7. Rural Investment Tax Exemption.

(a) General. Commencing on and after January 1, 2001, and before January 1, 2006, section 6378.1 of the Revenue and Taxation Code authorizes the Rural Investment Tax exemption (hereafter "Partial Exemption") which provides a partial exemption from sales or use taxes imposed on the gross receipts from the sale of, and the storage, use, or other consumption in this state, of tangible personal property as defined in subdivision (b)(6) by an eligible entity as defined in subdivision (b)(3).

For the period commencing on January 1, 2001, and ending on December 31, 2001, the Partial Exemption applies to the taxes imposed by sections 6051 and 6201 of the Revenue and Taxation Code (4.75%), but does not apply to the taxes imposed pursuant to sections 6051.2 and 6201.2 of the Revenue and Taxation Code, the Bradley-Burns Uniform Local Sales and Use Tax Law, the Transactions and Use Tax Law, or section 35 of article XIII of the California Constitution.

For the period commencing on January 1, 2002, the Partial Exemption applies to the taxes imposed by sections 6051, 6051.3, 6201, and 6201.3 of the Revenue and Taxation Code (5%), but does not apply to the taxes imposed pursuant to sections 6051.2 and 6201.2 of the Revenue and Taxation Code, the Bradley-Burns Uniform Local Sales and Use Tax Law, the Transactions and Use Tax Law, or section 35 of article XIII of the California Constitution.

The California Infrastructure & Economic Development Bank (CIEDB) Board, part of the California Technology, Trade & Commerce Agency, determines who is eligible to receive this Partial Exemption and monitors eligible entities for compliance with the requirements of the Partial Exemption. As the aggregate amount of this Partial Exemption is limited, the CIEDB Board determines the amount of this Partial Exemption available to each eligible entity.

(b) Definitions. For purposes of this regulation:

(1) "Board" refers to the Board of Equalization.

(2) "CIEDB Board" refers to the California Infrastructure & Economic Development Bank Board.

(3) "Eligible entity" means any entity that meets all of the following:

(A) The entity is deemed eligible for the Partial Exemption in writing by the CIEDB Board.

(B) The entity has been pre-qualified, and re-qualified as applicable, by the Board and registered to hold a California seller's permit or maintain a consumer use tax account.

(4) "Primarily" means used 50 percent or more of the time in a qualified county for the one-year period following the date of purchase of the property. Tangible personal property shall not be considered used for any period of time that the property is located outside a qualified county, regardless of how the property is used while outside the qualified county.

(5) "Qualified county" means a California county with an average annual unemployment rate of five percentage points or more above the statewide average for the most recent calendar year as determined by the State of California, Employment Development Department.

(6) "Tangible personal property" includes all of the following:

(A) Machinery and equipment within the meaning of subsection (a)(6) of Regulation 1521 of the Sales and Use Tax Regulations, including component parts and contrivances such as belts, shafts, moving parts, and operating structures. The terms also include conveyance systems and assembly lines without regard to the manner of affixation to real property.

(B) All equipment or devices used or required to operate, control, regulate, or maintain the machinery including, without limitation, computers, data processing equipment, and computer software, including both operating programs and application programs, together with all repair and replacement parts with a useful life of one or more years therefor, whether purchased separately or in conjunction with a complete machine and regardless of whether the machine or component parts are assembled by the taxpayer or another party. Repair and replacement parts with a useful life of more than one year may qualify for this Partial Exemption even where such items are expensed for income tax purposes under the special provisions of section 179 of the Internal Revenue Code (26 U.S.C. s 179).

(7) "Tangible personal property" does not include any of the following:

(A) Any tangible personal property that is used primarily in administration, general management, or marketing.

(B) Furniture, inventory, or equipment used to store products.

(C) Any property for which a credit is claimed under either Section 17053.49 or 23649 of the Revenue and Taxation Code.

(D) Materials or fixtures within the meaning of subsections (a)(4) and (a)(5), respectively, of Regulation 1521 of the Sales and Use Tax Regulations, including such items set forth in Appendices A and B of Regulation 1521.

(E) Fuels.

(F) Real property.

(c) Partial Exemption Certificates.

(1) Obtaining and Maintaining the Partial Exemption Certificate. To obtain a Partial Exemption certificate, an entity must be pre-qualified by the Board,

registered to hold a California seller's permit or maintain a consumer use tax account, and be deemed eligible for the Partial Exemption by the CIEDB Board. An entity shall include in its application a copy of its written notification from the CIEDB Board verifying the entity's eligibility and the amount allocated by the CIEDB Board for use by that eligible entity pursuant to the Partial Exemption. Partial Exemption certificates issued to eligible entities will contain a control number and expiration date for verifying the entity's status as an eligible entity. To maintain a Partial Exemption certificate it may be necessary to re-qualify with the Board periodically in accordance with Revenue and Taxation Code section 6378.1. A Partial Exemption certificate is not valid if it has not been issued by the Board or if it is accepted after the expiration date on the certificate. Eligible entities that have been pre-qualified or re-qualified, as applicable, may reproduce the issued certificates as needed for their qualifying purchases.

The Partial Exemption certificates issued by the Board will be in substantially the same format as they appear in Appendices A and B of this regulation. Eligible entities who purchase or lease tangible personal property from an in-state retailer or an out-of-state retailer obligated to collect the use tax must provide the retailer with a Partial Exemption certificate in order to claim the Partial Exemption. The Partial Exemption Use Tax Declaration must be completed by an eligible entity to claim a Partial Exemption from use tax on purchases of tangible personal property from an out-of-state retailer not obligated to collect the use tax.

For purposes of this regulation, it is presumed that a seller accepts a Partial Exemption certificate from a purchaser in good faith in the absence of evidence to the contrary.

(2) Claiming the Partial Exemption.

(A) In General. The Partial Exemption from sales or use tax authorized under this part shall not be allowed unless:

1. The eligible entity furnishes the retailer with a Partial Exemption certificate no later than 60 days after the date of purchase; and
2. The retailer timely files a sales and use tax return claiming the Partial Exemption and, together with that timely return, provides the Board with a copy of the Partial Exemption certificate.

(B) Exclusions. Except as provided in subdivision (c)(2)(C) below, retailers claiming the Partial Exemption in timely filed returns will not be required to furnish the Board with copies of Partial Exemption certificates for sales or leases of tangible personal property made by a retailer at any single physical location to a single eligible entity that do not exceed an aggregate total of \$25,000 during a single calendar quarter. Regardless of the total quarterly sales per purchaser, however, when necessary for the efficient administration of the Sales and Use Tax Law, the Board may, on 30 days written notice, require a retailer to commence furnishing the Board with copies of all certificates on a quarterly basis pursuant to subdivision (c)(2)(A)2.

(C) Retention and Availability of Certificates. A retailer must retain each Partial Exemption certificate received from an eligible entity for a period of not less than four years from the date on which the retailer claims a Partial Exemption based on the Partial Exemption certificate.

Within 45 days of the Board's request, retailers must furnish to the Board any and all Partial Exemption certificates, or copies thereof, received from eligible entities, including Partial Exemption certificates for aggregate sales or leases of \$25,000 or less to a single eligible entity made at any single physical location of the retailer during a single calendar quarter.

(3) Partial Exemption Use Tax Declaration. A Partial Exemption from the use tax shall not be allowed unless the eligible entity:

(A) Timely files a sales and use tax return or consumer use tax return for the period in which the purchase occurs and timely pays any applicable tax in full that is excluded from this Partial Exemption as provided in subsection (a) of this regulation; and

(B) Attaches a completed Partial Exemption Use Tax Declaration (Appendix B) to the sales and use tax return or consumer use tax return that is timely filed with the Board.

(d) Refund of Partial Exemption.

(1) For the period commencing on January 1, 2001, and ending on June 30, 2002, an eligible entity may claim the Partial Exemption on qualified purchases from an in-state retailer or an out-of-state retailer obligated to collect the use tax by furnishing the retailer with a Partial Exemption certificate on or before September 30, 2002. The retailer must refund the tax or tax reimbursement directly to the purchaser or, at the purchaser's sole option, the purchaser may be credited with such amount. In the event that the retailer has already reported and paid the tax to the Board, the retailer must file a written claim for refund on or before October 31, 2002.

(2) An eligible entity who paid sales tax on a qualified sale or paid use tax on a qualified purchase and who failed to claim the Partial Exemption as provided by this regulation may file a claim for refund equal to the amount of the Partial Exemption that he or she could have claimed pursuant to this regulation. The procedure for such a claim shall be the same as for other claims for refund filed pursuant to Revenue and Taxation Code Section 6901. For transactions subject to use tax, an eligible entity filing a claim for refund of the Partial Exemption has the burden of establishing that he or she was entitled to claim the Partial Exemption with respect to the amount of refund claimed under this part. For transactions subject to sales tax, a person filing a claim for refund of the Partial Exemption has the burden of establishing that the purchaser of the qualified property otherwise met all the requirements of an eligible entity at the time of the purchase subject to the refund claimed under this part.

(e) Improper Use of Partial Exemption.

(1) Conversion of Property to a Use Not Qualifying for the Partial Exemption. Notwithstanding subdivision (a), this Partial Exemption shall not apply to any sale of, or the storage, use, or other consumption in this state of property that, within one year from the later of the date of purchase of the property or the date that the property was first placed into service by the purchaser in an exempt use, is: (i) removed from a qualified county, (ii) converted from an exempt use under this regulation to some other use not qualifying for the Partial Exemption, or (iii) used in a manner not qualifying for the Partial Exemption under this regulation.

For purposes of this regulation, property is converted to a use not qualifying for the Partial Exemption if, without limitation, the property, or any interest in the property, or possession or control of the property, is either directly or indirectly sold, transferred, leased, or assigned to an entity who is not an eligible entity on the date the property is sold, transferred, leased, or assigned to such non-eligible entity. In the case of a corporation that, as an eligible entity, purchases tangible personal property under this Partial Exemption and then, within one year from the later of the date of purchase of the property or the date that the property was first placed into service by that corporation in an exempt use, either directly or indirectly transfers that property to its parent corporation that is not an eligible entity on the date of the transfer of property to the parent corporation, that property has been converted to a use not qualifying for the Partial Exemption.

Tangible personal property shall not be considered used in a qualifying manner for any period of time that the property is located outside a qualified county, regardless of how the property is used while outside such a county.

(2) Purchases by Ineligible Entities. Notwithstanding subdivision (a), this Partial Exemption shall not apply if the CIEDB Board subsequently determines that a purchaser is not an eligible entity pursuant to Revenue and Taxation Code section 6378.1.

(3) Purchases Exceeding the Partial Exemption Allotment. Notwithstanding subdivision (a), this Partial Exemption shall not apply to any sale of, or the storage, use, or other consumption in this state of tangible personal property purchased by an eligible entity that exceeds the amounts allocated by the CIEDB Board for use by that eligible entity pursuant to the partial exemption.

(f) Purchaser's Liability for the Payment of Sales Tax.

(1) If a purchaser timely submits a copy of a Partial Exemption certificate to the seller or Partial Exemption Use Tax Declaration to the Board, and then within one year from the later of the date of purchase of the property or the date that the property was first placed into service by the purchaser in an exempt use, the purchaser either (i) removes that property from a qualified county, (ii) converts the property from an exempt use under this regulation to some other use not qualifying for the Partial Exemption, or (iii) uses that property in a manner not qualifying for the Partial Exemption under this regulation, then, in that event, the purchaser shall be liable for payment of the sales tax, with applicable interest, to the same extent as if the purchaser were a retailer making a retail sale of the property at the time the property was so removed, converted, or used.

(2) A purchaser providing a Partial Exemption certificate accepted timely and in good faith by the seller or a Partial Exemption Use Tax Declaration to the Board for tangible personal property that does not qualify for the Partial Exemption is liable for payment of the sales tax, with applicable interest, to the same extent as if the purchaser were a retailer making a retail sale of the property at the time the property was purchased.

(g) Leases to Qualifying Persons.

(1) Leases -In General. Subject to all the limitations and conditions set forth in this regulation, this Partial Exemption may apply to rental receipts

paid by an eligible entity with respect to a lease of tangible personal property to the eligible entity.

(2) Leases -Acquisition Sale and Leaseback. An eligible entity will be regarded as having paid sales tax reimbursement or use tax with respect to that eligible entity's purchase of property, within the meaning of those words as they are used in section 6010.65 of the Revenue and Taxation Code, if the eligible entity has paid all applicable taxes with respect to the acquisition of the property, notwithstanding the fact that the sale and purchase of the property may have been subject to the Partial Exemption from tax provided by this regulation.

(3) Subsequent Lease of Property Acquired Subject to Partial Exemption. If an eligible entity has acquired property subject to the Partial Exemption provided by this regulation and has paid all applicable taxes at that acquisition, the property will be regarded as property as to which sales tax reimbursement or use tax has been paid, and the subsequent lease of that property will not be subject to tax measured by rental receipts.

(h) Records. Adequate and complete records must be maintained by the eligible entity as evidence that the property purchased qualifies under the provisions of this regulation and that the property was used by the eligible entity. The eligible entity must also maintain detailed records to show the amount of the tax benefit derived from this Partial Exemption as each eligible entity will have an annual limit established by the CIEDB Board.

The Board shall, within one year after being notified by the CIEDB Board that an entity has not fulfilled the requirements of Revenue and Taxation Code section 6378.1, examine the books and records of the entity, and issue a determination of any liabilities due.

(i) Operative Date. This regulation is operative as of January 1, 2001 and expires December 31, 2005 unless Revenue and Taxation Code section 6378.1 is extended by an act of the Legislature.

Note: Authority cited: Section 7051, Revenue and Taxation Code.
Reference: Section 6378.1, Revenue and Taxation Code.

HISTORY

1. New section and appendices A and B filed 6-7-2002; effective 7-7-2002; operative 1-1-2001 pursuant to Revenue and Taxation Code sections 7051 and 6378.1 (Register 2002, No. 23).

Appendices A and B are not included in this electronic version.